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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,371	04/04/2001	Jason P. McDevitt	KCX-250 (15306)	2875

22827 7590 10/02/2002

DORITY & MANNING, P.A.  
POST OFFICE BOX 1449  
GREENVILLE, SC 29602-1449

EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/826,371

Applicant(s)

MCDEVITT ET AL. *CH*

Examiner

Lalita M Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Summary**

On January 31, 2002, an Office Action was sent to the Applicant rejecting claims 1-38. On June 14, 2002, the Applicant responded by filing a request for reconsideration.

### ***Information Disclosure Statement***

The information disclosure statement filed February 4, 2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 31. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 and 24-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zook in view of Abuto ('021).

Zook discloses the invention substantially as claimed; however, Zook does not disclose a nonwoven web of fibrous material or pulp fibers. Abuto teaches a fibrous nonwoven laminate for use in bandages comprising a nonwoven web of fibrous material and pulp fibers (col.1, lines 20-27; col.2, lines 5-8; and col.6, line 40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the nonwoven web of fibrous material and pulp fibers onto the invention disclosed by Zook as an alternative choice of material for the bandage.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zook and Abuto as applied to claim 20 above, and in further view of Tanihara ('229).

Zook discloses and Abuto teaches the invention substantially as claimed; however, neither reference discloses nor teaches chitosan. Tanihara teaches a bandage comprising chitosan (col.7, lines 20-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate chitosan into the bandage disclosed by Zook and taught by Abuto to provide an alternative means of deterring infection in the area being treated.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zook and Abuto as applied claim 20 above, and in further in view of Satoh ('758).

Zook discloses and Abuto teaches the invention substantially as claimed; however, neither reference discloses nor teaches a cyclooxygenase inhibitor. Satoh

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teaches a formulation for application to the skin comprising cyclooxygenase (col.13, lines 13-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a cyclooxygenase inhibitor as taught by Satoh into the device disclosed by Zook and taught by Abuto to provide an alternative material for deterring infection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272.

  
LMH



NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

October 1, 2002

